

All communications respecting this case should identify it by number and names of parties.



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**MAY 21 1992**

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Applicants: Fraley et al  
Serial No.: 07/625,637  
Filed: December 7, 1990  
For: CHIMERIC GENES FOR  
TRANSFORMING PLANT CELLS  
USING VIRAL PROMOTERS

Accorded benefit of:  
US SN 06/931,492,  
filed Nov. 17, 1986;  
US SN 06/485,568,  
filed April 15, 1983;  
US SN 06/458,414,  
filed Jan. 17, 1983

The case referred to above has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with other cases hereafter specified. Attention is directed to the fact that this interference is declared pursuant to 37 CFR 1.601 et seq., effective February 11, 1985 (49 F.R. 48416. 1050 O.G. 385). The interference is designated as No. 102,890.

By direction of the Commissioner of Patents and Trademarks and as required by 35 USC 135(c), notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference."

The cases involved in this interference are:

Junior Party

Applicants: Robert T. Fraley and Stephen G. Rogers

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14788 Timberbluff Drive  
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Serial No.: 07/625,637, filed December 7, 1990

For: CHIMERIC GENES FOR TRANSFORMING PLANT CELLS  
USING VIRAL PROMOTERS

Assignees: Monsanto Company, St. Louis, MO, a corp. of DE

Attorneys of Record: Dennis R. Hoerner, Jr., Larry R. Swaney,  
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and Thomas P. McBride

Associate Attorney: Lawrence M. Lavin, Jr.

Accorded Benefit of: US SN 06/931,492, filed Nov. 17, 1986  
US SN 06/485,568, filed Apr. 15, 1983  
US SN 06/458,414, filed Jan. 17, 1983

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Senior Party

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Serial No.: 07/373,795, filed June 29, 1989

For: METHOD TO TRANSFORM PLANT CELLS, USEFUL  
CONSTRUCTS AND RESULTING CELLS

Assignees: Calgene, Inc, Davis, CA, a corp. of DE

Attorneys of Record: Bertram I. Rowland, Richard L. Neeley,  
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Herbert C. Rose, Robert F. Green, Janice M. McLain,  
Paul F. Pedigo

Associate Attorney: Richard D. Kelly

Accorded Benefit of: US SN 07/192,484, filed May 11, 1988,  
Patent No. 5,068,193, issued Nov. 26, 1991  
US SN 06/796,484, filed Nov. 06, 1985,  
Patent No. 4,762,785, issued Aug. 09, 1988  
US SN 07/049,559, filed May 13, 1987;  
US SN 06/407,525, filed Aug. 12, 1982;  
US SN 07/014,154, filed Feb. 11, 1987;  
US SN 06/464,228, filed Feb. 07, 1983

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Count 1

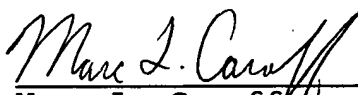
A DNA construct comprising:

(A) a CaMV promoter selected from the group consisting of a 35S promoter and a 19S promoter, and

(B) a DNA sequence of interest heterologous to (A), wherein (B) is under the regulatory control of (A) when said construct is transcribed in a plant cell.

The claims of the parties which correspond to this count are:

Fraley et al: Claims 1, 2, 4-11 and 13-20  
Comai et al: Claims 39-58

  
\_\_\_\_\_  
Marc L. Caroff  
Examiner-in-Chief  
(703) 557-4007

mjm

INTERFERENCE  
DIGESTInterference No. 102,890 Paper No. 28Name, Robert T. Fraley et alSerial No. 07/625,637 Patent No. \_\_\_\_\_Title, CHIMERIC GENES FOR TRANSFORMING PLANT CELLS USING VIRAL PROMOTERSFiled, December 7, 1990Interference with Comai et al

## DECISION ON MOTIONS

Examiner-in-Chief, \_\_\_\_\_ Dated, \_\_\_\_\_

## FINAL DECISION

~~DECISION ON PRIORITY~~Board of Patent Appeals and Interferences, Favorable Dated, 7/14/93

Court, \_\_\_\_\_ Dated, \_\_\_\_\_

## REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.